



DEPARTMENT OF ENVIRONMENTAL PROTECTION
Monthly Enforcement Report
for actions during July 2009
DISTRIBUTED: August 14, 2009

This report has been prepared to satisfy a statutory obligation the Maine Department of Environmental Protection has to inform the public of certain enforcement resolutions. Please contact Peter Carney at (207) 287-4305 or peter.j.carney@maine.gov for additional information regarding the activities listed in this report. The full text of most Administrative Consent Agreements is available on the Board of Environmental Protection's website at <http://www.maine.gov/dep/bep/agenda.htm>.

The following cases were resolved to achieve compliance with the law; remediate environmental damage; restore natural resources to appropriate conditions; and impose penalties to deter similar actions in the future.

Administrative Consent Agreements Approved by the Board of Environmental Protection and Office of the Attorney General (party followed by location):

Land:

Borex Stratton Energy LP, Eustis, Maine. Borex Stratton Energy LP ("Borex Stratton") violated Maine's *Site Location of Development* law and a Department permit issued pursuant to the *Site Location of Development* law by allowing wood fuel and fuel leachate outside of a lined fuel storage area as required by the facility's license. In addition, Borex Stratton violated Maine's *Protection and Improvement of Waters* law by causing the discharge of fuel leachate to waters of the State. Following Department involvement, Borex Stratton submitted a plan to the Department to remove all wood fuel deposited off the lined fuel storage area and prevent fuel from leaving the lined area in the future. In addition, Borex Stratton submitted an application, which was approved by the Department, to expand the lined fuel storage area to allow mobile equipment to operate within the confines of the lined area which will limit the transportation and tracking of wood fuel outside the lined area. To resolve the violations, Borex Stratton paid a civil monetary penalty of \$5,350.

Ellsworth Builders Supply Inc., Orland, Maine. Ellsworth Builders Supply Inc. ("EBS") violated provisions of Maine's *Stormwater Management* law by constructing a project that includes one acre or more of disturbed area without first obtaining a permit from the Department. Specifically, in expanding their Orland lumber yard facility, EBS disturbed an area in excess of one acre including the creation of paved parking areas, graveled parking areas, buildings, and lumber storage areas totaling approximately 1.3 acres. To resolve the violation, EBS agreed to submit an after-the-fact permit application pursuant to the *Stormwater Management* law for the developed area associated with the expansion of the lumber yard and comply with the terms of the permit if approved, or if the permit is denied, submit a restoration plan to the Department to remove the developed areas and replant the areas to their preexisting vegetative cover. EBS paid \$2,000 as a civil monetary penalty.

District Court Enforcement Resolutions (party followed by location):

Oil:

State of Maine, Department of Environmental Protection v. Mitchell Bros., Inc. and Phillip D. Mitchell, Sherman, Maine. Mitchell Bros., Inc. ("Mitchell Bros.") and Phillip D. Mitchell ("Mitchell") violated provisions of Maine's *Underground Oil Storage Facilities and Ground Water Protection* law and the Department's *Rules for Underground Oil Storage Facilities*. The violations relate to the inspections of an underground oil storage facility and the removal of two 2,000 gallon underground oil storage tanks that were used to store gasoline. The tanks were taken out of service in 1994 and remained in the ground until 2008 when they were removed personally by Mitchell. Specifically, Mitchell Bros. as the facility owner, and Mitchell as a person who personally participated in some or all of the violations and as a responsible corporate officer, failed to: submit passing annual compliance inspection results to the Department for 2003, 2004, 2005, 2006, and 2007 for the Mitchell Bros. facility; failed to properly abandon the two tanks and associated piping; failed to provide written notice of its intent to abandon the Mitchell



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Bros. facility prior to abandonment; failed to remove the two tanks and associated piping under the direct supervision of a certified underground oil storage tank installer; failed to remove the two tanks and associated piping in the sequence required by Department rules; and failed to conduct a site assessment at the time of removing the two tanks. Following Department involvement, a site assessment of the Mitchell Bros. facility was conducted in accordance with Maine law and Department rules. To resolve the violations, pursuant to a consent decree and order entered into by the parties, Mitchell Bros. and Mitchell agreed to empty and clean the removed tanks in accordance with Department rules and will pay a civil monetary penalty of \$25,700, of which \$15,700 was suspended contingent upon compliance with the terms and conditions of the order.